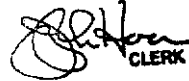


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
OCT 10 2007

CLERK

*
TODD A. SCOFIELD, * CIV 07-4120
*
*
Petitioner, *
*
*
-VS- * MEMORANDUM OPINION
* AND ORDER
*
JOHN E. HAAK, ASSISTANT U.S. *
ATTORNEY, in and for the Federal *
Government, *
*
Respondent. *

Todd Scofield filed a motion for a writ of mandamus compelling the respondents to produce evidence that prior to February 5, 2004, the Federal Government did annul or abolish Scofield's constitutional rights secured and protected by the Second Amendment to the Constitution of the United States, Doc. 1. He contends that his right to carry firearms has not been annulled and that the Second Amendment to the Constitution bars the Federal Government, its Congress, judges, and prosecutors from annulling or abolishing his right to carry firearms. He seeks an order compelling the Federal Government, through Assistant United States Attorney, John Haak, to produce judicial records establishing the Federal Government judicially annulled or abolished his Second Amendment rights.

The Court previously denied Scofield's motion under 28 U.S.C. § 2255 seeking to vacate his conviction for conspiracy to possess with intent to distribute and to distribute methamphetamine in violation of 21 U.S.C. §§ 846 and 841(a)(1), being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and 924(a)(2), and two counts of distribution of methamphetamine in violation of 21 U.S.C. § 841(a)(1). *See United States v. Scofield*, CR 04-40015 and CIV 07-4012 (D.S.D. Sept. 25, 2007). Scofield was sentenced to 240 months' imprisonment on the conspiracy and distribution of methamphetamine counts and to 120 months' imprisonment on the firearm conviction, all to be

served concurrently, and was further sentenced to supervised release. His conviction and sentence were affirmed on appeal to the Eighth Circuit Court of Appeals. *See United States v. Scofield*, 433 F.3d 580 (8th Cir. 2006).

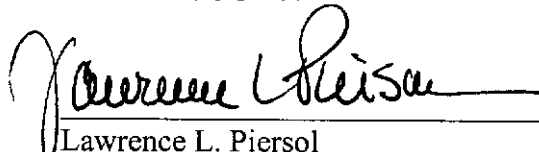
The Court did not require the Government to respond to Scofield's claim that 18 U.S.C. § 922(g) is unconstitutional because Scofield claims the Second Amendment provides an individual the right to bear arms. As the Court has previously explained, the Eighth Circuit's "established precedent upholds the constitutionality of § 922(g)(1)." *United States v. Wilson*, 315 F.3d 972, 973 (8th Cir. 2003) (citing *United States v. Waller*, 218 F.3d 856, 857 (8th Cir. 2000) (per curium) (holding that "it is now well-settled that Congress did not violate the Second Amendment in enacting" 18 U.S.C. § 922(g)(1)). Accordingly,

IT IS ORDERED:

1. That Todd Scofield's motion for a writ of mandamus, Doc. 1, is denied.
2. That this action is dismissed with prejudice, pursuant to FED.R.CIV.P. 12(b)(6) for failure to state a claim upon which relief can be granted.

Dated this 10th day of October, 2007.

BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: Sharon Souza
(SEAL) DEPUTY